
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

STARCO IMPEX, INC.,

Plaintiff,

versus

LANDMARK AMERICAN
INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO. 1:19-CV-39

MEMORANDUM ORDER

The court referred this matter to United States Magistrate Judge Keith F. Giblin for consideration and recommended disposition of case-dispositive motions. On June 3, 2020, Judge Giblin issued a report and recommendation (#30) on the defendant's motion for summary judgment. He recommended that the Court grant the motion. On June 17, 2020, the plaintiff filed objections (#31) to the magistrate judge's report.

Plaintiff objects by arguing that it provided substantial evidence that it can segregate its non-covered losses from covered losses under the insurance policy at issue. Plaintiff maintains it presented evidence that its property sustained new, covered damages as a result of Hurricane Harvey.

After consideration of the plaintiff's objections and evidence, the Court finds the objections should be overruled. Judge Giblin considered the competing evidence referenced by Plaintiff in its objections - namely, the testimony of Plaintiff's representative Usman Akbar and its expert witness, Dr. Neil Hall. The Court agrees with Judge Giblin that the testimony of Akbar and Hall is insufficient to create a genuine issue of material fact on whether Plaintiff can properly

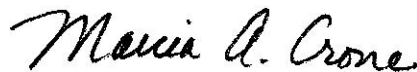
segregate and allocate its non-covered, pre-existing damages from any new loss covered by the governing insurance policy. Plaintiff has not presented sufficient evidence that it can differentiate between covered and non-covered damages as required by law. *See* Report and Recommendation, at pp. 10-12.

The Court has considered the magistrate judge's report and the plaintiff's specific objections. Having conducted a *de novo* review, the Court concludes that the findings and conclusions of the Magistrate Judge are correct.

The Court ORDERS that the report and recommendation (#30) is ADOPTED. Plaintiff's objections (#31) to that report are OVERRULED.

The Court further ORDERS that the defendant's motion for summary judgment (#21) is GRANTED. Summary judgment is entered in favor of the defendant, Landmark American Insurance Company. The plaintiff's claims are accordingly dismissed in their entirety, with prejudice. The Court will enter final judgment separately.

SIGNED at Beaumont, Texas, this 23rd day of June, 2020.

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE